

Message Text

PAGE 01 MOSCOW 02229 131853Z

11

ACTION DLOS-04

INFO OCT-01 EUR-12 ISO-00 IO-11 FEA-01 ACDA-05 AGR-05

AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 OFA-01

COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01

TRSE-00 H-02 INR-07 INT-05 JUSE-00 L-03 NSAE-00

NSC-05 NSF-01 OES-03 OMB-01 PA-01 PM-04 PRS-01 SP-02

SS-15 USIA-06 SAL-01 /119 W
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R 131538Z FEB 76

FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC 9911

INFO AMEMBASSY BELGRADE

AMEMBASSY BERLIN

USMISSION USBERLIN

AMEMBASSY BONN

AMEMBASSY BUDAPEST

AMEMBASSY PRAGUE

AMEMBASSY SOFIA

AMEMBASSY WARSAW

USMISSION USUN

C O N F I D E N T I A L MOSCOW 2229

E.O. 11652: GDS

TAGS: P/LOS

SUBJ: LOS SOCIALIST DEP FORMINS MEETING: COMPULSORY DISPUTE
SETTLEMENT

REF: STATE 34000

1. SUMMARY. I CALLED ON DEPUTY FOREIGN MINISTER KOSYREV
THIS MORNING TO PRESENT U.S. VIEWS ON COMPULSORY DISPUTE
SETTLEMENT UNDER THE LOS CONVENTION (REFTEL).
HE WAS ACCOMPANIED BY ROMANOV OF THE MFA'S TREATY
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PAGE 02 MOSCOW 02229 131853Z

AND LEGAL DIVISION AND I BY THE EMBASS'S LOS OFFICER. KOSYREV
SAID THA THE SOVIETS AGREE "IN PRINCIPLE" WITH THE U.S.
POSITION, PARTICULARLY THE NECESSITY TO PREVENT ANY ENCOURAGE-
MENT FOR ARBITRARY ACTION BY COASTAL STATES. HOWEVER, HE

SPOKE MAINLY OF PROCEDURAL MATTERS IN PREPARATION FOR THE NEW YORK SESSION, EMPHASIZING THAT THE SINGLE NEGOTIATING TEXT WAS AN INFORMAL DOCUMENT AND SHOULD BE HANDLED AS SUCH UNTIL A FINAL CONSENSUS CAN BE REACHED ON ALL MATTERS. HE PROPOSED THAT THE U.S. AND SOVIET DELEGATIONS MEET AGAIN BILATERALLY BEFORE THE NEW YORK SESSION AND SAID THAT THE SOVIETS WOULD PROVIDE US COPIES OF THEIR PROPOSED AMENDMENTS BEFORE THAT TIME. KOSYREV DID NOT MENTION THE WARSAW MEETING OF EE DEPTUY FOREIGN MINISTERS REPORTEDLY SCHEDULED FOR NEXT WEEK. END SUMMARY.

2. I READ A NON-PAPER TO KOSYREV INCORPORATING ALMOST VERBATIM PARAS 2, 3, AND 4 OF REFTEL. I ALSO PRESENTED ORALLY THE POINTS ON PARA 8 AND ADDED THAT WE VALUE HIGHLY THE CLOSE COOPERATION WHICH OUR TWO GOVERNMENTS HAVE ENJOYED ON LAW OF THE SEA MATTERS. KOSYREV REPLIED TO THE LATTER POINT FIRST, SAYING "HE FULLY AGREES" AND VALUED THE EXCHANGES AND CONSULTATIONS WITH THE U.S. SIDE BOTH BILATERALLY, IN THE GROUP FO 5, AND IN OTHER FORA.

3. NOT RESPONDING INITIALLY TO MY POINTS ABOUT DISPUTE SETTLEMENT, KOSYREV SAID THAT CONSULTATIONS ON THE WHOLE RANGE OF LOS MATTERS ARE STILL GOING ON AT THE "INFORMAL" LEVEL AND THAT THE SOVIET SIDE WOULD LIKE TO CONTINUE THIS APPROACH. HE SAID THAT SOME EFFORT MAY BE MADE AT THE FORTHCOMING NEW YORK LOS CONFERENCE TO MAKE THE PROCEEDINGS FORMAL FROM THE BEGINNING BUT THAT THE SOVIET SIDE IS OPPOSED TO THIS APPROACH. THE SINGLE NEGOTIATING TEXT, HE SAID, IS AN UNOFFICIAL DOCUMENT AND THE QUESTIONS WHICH RELATE TO IT SHOULD BE DISCUSSED INFORMALLY AT THE NEXT SESSION OF THE LOS CONFERENCE. HE MENTIONED THAT THE CONFERENCE CHAIRMAN, AMERISINGHE, HAD BEEN TO MOSCOW RECENTLY AND HAD DISCUSSED PROCEDURAL MATTERS WITH THE SOVIETS. KOSYREV SAID THAT THERE MAY BE SOME EFFORT TO BLAME CONFIDENTIAL

PAGE 03 MOSCOW 02229 131853Z

AMERISINGHE IF THE SESSION DOES NOT BEGIN AT THE FORMAL LEVEL BUT THESE EFFORTS ARE PUT FORTH FOR OTHER REASONS AND WILL NOT SUCCEED. THE PATTERN WHICH HAS PREVAILED THUS FAR SHOULD BE CONTINUED. SAID KOSYREV, AND THE SOVIET UNION WOULD BE PLEASED TO TAKE A PARALLEL LINE ON THIS QUESTION IF THE U.S. SIDE AGREES ON THE VIEW THAT THE SINGLE NEGOTIATING TEXT SHOULD BE TREATED AS THE BASIS FOR INFORMAL DISCUSSIONS AT THE FORTHCOMING CONFERENCE.

4. KOSYREV THEN SAID SPECIFICALLY THAT THE WAY THE SOVIETS WOULD LIKE TO SEE THE WORK OF THE CONFERENCE ORGANIZED IS AS FOLLOWS: EACH COMMITTEE SHOULD MEET

INFORMALLY, SHOULD DISCUSS ALL PROPOSED AMENDMENTS INFORMALLY, AND SHOULD ADOPT A CONSENSUS VIEW ON THEM INFORMALLY. THE CHAIRMAN OF EACH COMMITTEE SHOULD THEN COMPILER A PACKAGE OF AGREED AMENDMENTS AND SHOULD INCORPORATE THEM INTO A REVISED TEXT TO BE PRESENTED TO AMERISINGHE. THEN HE, AS CHAIRMAN OF THE CONFERENCE, SHOULD FOLLOW THE SAME PROCEDURE WITH THE TEXTS HE RECEIVES. FINALLY, AFTER DIFFERENCES HAVE BEEN WORKED OUT AT THE COMMITTEE LEVEL AND FINALLY AT THE CONFERENCE LEVEL, THE AGREED TEXT COULD BE PRESENTED AS A FORMAL DOCUMENT FOR DISCUSSION AND RATIFICATION BY THE ENTIRE CONFERENCE.

5. KOSYREV THEN SUGGESTED THAT THE US AND SOVIET DELEGATIONS MIGHT USEFULLY GE TOGETHER BEFORE THE NEW YORK MEETING TO HAVE A FURTHER BILATERAL SISSION TO DISCUSS TWO POINTS IN PARTICULAR: (1) THE PROGRAM OF WORK FOR THE CONFERENCE AND, (2) ISSUES ON WHICH THE TWO SIDES STILL DIFFER, INCLUDING PERHAPS DETAILS ON THE QUESTION OF DISPUTE SETTLEMENT. HE SAID THAT THE SOVIET SIDE BELIEVES THE CONFERENCE MUST CONTAIN PROVISIONS FOR THE SETTLEMENT OF DISPUTES INCLUDING A PROCEDURE FOR COMPULSORY THIRD-PARTY ARBITRATION. IN THE CONFERENCE ITSELF, HOWEVER, THE FOCUS SHOULD BE ON ALL ASPECTS OF THE SINGLE NEGOTIATING TEXT IN GENERAL SO AS NOT TO MAKE DISPUTE SETTLEMENT STAND OUT AS A SEPARATE OR PARTICULARLY CONTENTIOUS CONFIDENTIAL

PAGE 04 MOSCOW 02229 131853Z

ISSUE. WITH THE INFORMAL ARRANGEMENT WHICH THE SOVIETS FAVOR, EACH COUNTRY WOULD BE ABLE TO PROPOSE IDEAS AND DISCUSS THEM AND MODIFY DIFFERING VIEWS ON HOW DISPUTE SETTLEMENT WOULD APPLY TO FISHERIES, NAVIGATION, POLLUTION, SCIENTIFIC RESEARCH AND PERHAPS OTHER QUESTIONS.

6. AT THIS POINT KOSYREV'S COLLEAGUE, MR. ROMANOV, INTERJECTED THAT THE SOVIETS ALSO IN PRINCIPLE SUPPORT A REGIME FOR WHAT HE CALLED "VESSEL RELEASE AUTHORITY," UNDER WHICH A COUNTRY WOULD BE INHIBITED FROM TAKING ARBITRARY ACTION IN SEIZING AND HOLDING A SHIP. (COMMENT: ROMANOV'S MEANING WAS NOT COMPLETELY CLEAR ON THIS POINT, BUT WE INFERRED THAT HE MAY HAVE HAD IN MIND AN ACTION BODY WHICH COULD RESPOND TO INCIDENTS WHEN THEY OCCUR.) ROMANOV WENT ON THAT THE SOVIETS ALSO OPPOSE THE EFFORTS BY SOME COASTAL STATES TO EXCLUDE SOME AREAS FROM DISPUTE SETTLEMENT. UNDER ARTICLE 18 OF PART IV OF THE SINGLE NEGOTIATING TEXT, IN PARTICULAR, THE SOVIETS OPPOSE THE PRVISION OF "DISCRETIONARY RIGHTS" AND PROPSOE THAT THIS CLAUSE BE DELETED. ROMANOV SUGGESTED THAT THE US AND

THE SOVIET UNION BOTH PROPOSE SUCH AND AMENDMENT TO
DELETE THIS PROVISION.

7. KOSYREV THEN SAID THAT THE SOVIET SIDE IS PREPARING
ITS PACKAGE OF PROPOSED AMENDMENTS AND COULD PROVIDE
THEM TO THE US SIDE IN TIME FOR THE PROPOSED BILATERAL
MEETING BEFORE THE RECONVENING OF THE CONFERENCE.
I REPLIED THAT WE WOULD WELCOME THE CHANCE TO SEE
THE SOVIET PROPOSED AMENDMENTS AND TO ANALYZE THEM
BEFORE THE CONFERENCE RECONVENES. I ALSO SAID THAT
WE WOULD PASS ALONG THE SOVIET PROPOSAL FOR A FURTHER
BILATERAL MEETING BEFORE THE NEW YORK SESSION.

8. I REITERATED THAT THE US CONSIDERED THAT A COM-
PREHENSIVE SYSTEM FOR DISPUTE SETTLEMENT WAS REQUIRED
AND THAT WE DID NOT EXPECT TO BE ABLE TO ACHIEVE SUCH
A SYSTEM FOR FISHING ALONE. I SAID THAT WE WERE
FLEXIBLE ABOUT PROCEDURES BUT THAT WE FELT THE SYSTEM
SHOULD BE COMPREHENSIVE, EVEN IF DIFFERENT PROCEDURES
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PAGE 05 MOSCOW 02229 131853Z

WERE USED FOR DIFFERENT TYPES OF DISPUTES. ROMANOV
MADE PARTICULAR NOTE OF THIS LAST POINT AND KOSYREV
CONCLUDED BY SAYING THAT THE SOVIETS "IN PRINCIPLE"
AGREE TO THE NECESSITY OF HAVING A COMPULSORY PRO-
CEDURE. HE SAID THAT WE MAY STILL DIFFER ON SOME DE-
TAILS BUT THAT THESE SHOULD BE RESOLVABLE THROUGH
FURTHER DISCUSSIONS.

8. ACTION REQUESTED: DEPARTMENT'S VIEWS ON SOVIET SUGGESTION
FOR BILATERAL CONSULTATIONS BEFORE THE NEW YORK SESSION OF
LOS CONFERENCE.
STOESSEL

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<< END OF DOCUMENT >>

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